THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.7155 of 2007

Date:18.07.2007

Between:

M/s.Sai Padmavathi Enterprises.

PETITIONER

AND

The Government of India and others.

---------RESPONDENTS

ORDER:

The petitioner is a dealer in insecticides. A licence is required to be obtained under the Insecticides Act, 1968 (for short the Act'), and the Rules made thereunder. Rule 10 of the Insecticides Rules, 1971, prescribes the procedure for grant or renewal of licence as well as the fee payable thereon. The Rules were framed in the year 1971 and the licence fee prescribed under Rule 10(2) of the Rules was Rs.20/- for each item of insecticides, subject to a maximum of Rs.300/-. It is also stipulated that in case, the business is conducted at more places than one, such as stocking or exhibition for sale, separate fee shall be paid for each place.

Through the Insecticides (amending Rules), 1999, the Central Government, the first respondent herein, enhanced the licence fee to Rs.500/- for each item, subject to a maximum of Rs.7,500/-. The petitioner challenges the same as illegal, arbitrary and unreasonable. It is contended that the enhancement of licence fee from Rs.20/- to Rs.500/-, can, by no stretch of imagination, be treated as reasonable and it would have the effect

of crippling the business of the petitioner. Grievance is also made as regards the requirement to obtain separate licence for stocking points and sale points.

The learned counsel for the petitioner submits that though the first respondent is vested with the power to stipulate the licence fee, the revision thereof must be reasonable and not capricious. He contends that mere existence of power cannot be a justification to exercise it in an arbitrary and unreasonable manner.

The learned Additional Central Government Standing Counsel for the first respondent, on the other hand, submits that the fee remains stagnant for about three decades and having regard to the rate of inflation and the prices, at which the insecticides are being sold, the enhancement of licence fee cannot be said to be unreasonable.

It is the prerogative of the first respondent to impose restrictions on the manufacture and trade in insecticides and to regularise the business thereof. Section 36 of the Act empowers the first respondent to frame the Rules, touching on various aspects, and to give effect to the provisions of the Act. Sub-section(2)(i)(j) of Section 36 of the Act is specific as regards the fee to be levied, while granting licence or for renewal thereof. It was in the exercise of this power that the procedure under Rule 10 was prescribed, dealing with granting and renewal of licence.

It is no doubt true that enhancement of the licence fee from Rs.20/- to Rs.500/- shocks the conscious of any individual. The enhancement must be reasonable and should not result in undue hardship, impinging upon the right to carry on trade on profession. However, if the fact that the licence fee of Rs.20/- was fixed way back in the year 1971 and there were no revisions up to the year

1999 is taken into account, a totally different picture altogether would emerge. The change in the value of the rupee during the interregnum, and the comparative rates that prevailed in the year 1971 on the one hand and 1999 on the other, would certainly justify the enhancement. Further, it is an eventuality, which takes place once in two years, for a licencee. Having regard to the volume of business and turnover by a dealer, the enhancement cannot be said to be unreasonable.

Another complaint of the petitioner is about the requirement to obtain separate licences, where more places than one are involved. This is a condition, which is in force ever since the Rules were framed. At this length of time, the petitioner cannot challenge the condition. Viewed from any angle, this Court is not inclined to interfere with the impugned Rule.

The writ petition is accordingly dismissed. The petitioner shall be entitled to pay the difference of licence fee, within a period of two months from today, without interest. In default, the amount shall carry interest. There shall be no order as to costs.

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18.07.2007

kdl